

SWORN STATEMENT

For use of this form, see AR 190-45: The proponent agency of the Deputy Chief of Staff for Personnel.

LOCATION: Fort Gillem, GA

DATE: 13 Aug 08 *JCC*

TIME: 1016

FILE NUMBER: SOCO 0058-08

LAST NAME, FIRST NAME, MIDDLE NAME: Chelko, Larry Charles

LAST FOUR OF SSN: XXX-XX- [REDACTED]

GRADE/STATUS: YF-03

ORGANIZATION OR ADDRESS: U.S. Army Criminal Investigation Laboratory, Fort Gillem, GA 30297

JCC
I, Larry C. Chelko want to make the following statement under oath:

This office is investigating various allegations levied against personnel assigned to USACIL regarding a contract process with the National Forensic Science Technology Center (NFSTC).

Q: What do you know about the NFSTC?

A: It's an off-shoot of the American Society of Crime Laboratory Directors. It's my understanding that it is a not for profit organization set up to support the forensic science community in the United States.

Q: Does USACIL have a long standing relationship with the NFSTC?

A: No. I would not call it a long standing relationship. We've contracted with them years ago to do a pre-audit leading up to our accreditation audit by ASCLD/Lab. We may have used NFSTC once when they provided free audits under a federal grant.

Q: Do you know when USACIL initiated a relationship with the NFSTC to assess and provide training to USACIL examiners, who initiated that relationship, and why?

A: Earlier this year, Mr. Rick Tontarski initiated it. The Department of Defense has decided they need eight forensic firearms examiners in theater this year. DoD only had three examiners. The U.S. Navy, using biometrics money, had been tasked to provide the examiners; but could not find the examiners. People are looking to USACIL to either provide or train examiners. The normal process would take us six months or more to get candidates, and two years to train them, as we've historically done it. This doesn't meet the war time urgency for the requirements. I believe Tontarski was looking for an innovative solution to the problem. NFSTC has done some of this kind of work, both training and developing innovative training programs. I believe Tontarski felt this was an opportunity for us to partner with someone who could solve DoD's problem. It was looked at that the federal government had already paid for some of this through National Institute of Justice grants and funding to NFSTC.

Q: What involvement did you have in this process?

A: Oversight. We've had ongoing discussions at staff meetings from the beginning.

Q: What authority did you have to participate in this process?

A: I am the lab director.

Q: Did you provide Tontarski with any specific instructions regarding his role? (By whom and what were you told to do?)

A: No. He was to carry out his duties as the chief of the Forensics Analysis Division, charged with providing forensic experts for mission requirements.

Q: What services was USACIL trying to procure from the NFSTC regarding the firearms examiners?

A: I believe the proposed effort was several fold. We were trying to determine if we could

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upgrade our latent print program of instruction, specifically using new teaching technologies. For firearms, to upgrade the program of instruction with newer technologies, and to deliver it because of the new timeline to train additional examiners.

Q: What were the timelines, as far as identifying the need, working the contract process and then when the service was actually needed?

A: Over the last year and a half, the theater commander asked the Provost Marshal General to provide a latent print and firearm examiner to Camp Victory to support the Sniper Task Force. Since then, there have been a number of meetings held under the auspices of the Biometrics Task Force and the Forensic Executive Steering Committee, co-chaired by BG Johnson that identified this as one of the requirements for support in theater. USACIL is being looked at to provide reach back as a source of subject matter expertise, and potentially do and review the technical work, and provide quality assurance support to contractors, provide supplies and equipment, 24-7 communications, and anything else that people think we can do. We've also been tasked by BG Johnson to develop a concept plan to provide an expeditionary forensic lab capability. That concept plan has been developed by USACIDC Manpower Branch and is at Department of the Army for review and approval. The significance of that is it would require us to train and man sufficient personnel to operate four deployable labs. The manpower requirements are currently 196 positions. A significant number of those positions are the technical experts of which we are speaking. This would require us to train the people.

Q: Who is in charge of the process to provide a contract to the NFSTC?

A: All of the contracting processing folks are under the chief of staff, Mr. Robert Abernathy.

Q: What is the current status of the contract process with the NFSTC?

A: It's being reviewed by the Contracting Office at Fort McPherson, GA at our request.

Q: Do you know the value of the intended contract for the NFSTC to provide services to USACIL?

A: Not specifically to be honest with you.

Q: What roles have Mr. Tontarski, Mr. Abernathy and the Division Chiefs played in the contract process with the NFSTC?

A: I believe Tontarski proposed a contract with NFSTC as potential solution to the problem we discussed. The division chiefs helped him evaluate the potential of such a contract. At least two visited NFSTC to see their potential. Abernathy would oversee the contract process.

Q: Why was the NFSTC selected as a possible source for this contract?

A: I believe that is one of the issues here. Tontarski is familiar with the NFSTC. He knows Mr. Kevin Lothridge, the director. Tontarski's wife is on the NFSTC board. So, I believe Tontarski is familiar with what NFSTC could do in this area. On the flip side, I don't believe he or anyone else in USACIL is aware of any other organization that had NFSTC's forensic and training expertise. So, I believe that in an effort to try to quickly help resolve a DoD level problem, that Tontarski leveraged what we knew about NFSTC to resolve the problem. I think that one of the issues is that the NFSTC was seen as a not for profit organization, partially federally funded, to provide support to the forensic community. The intent was to try and take advantage of that.

Q: Do you know what type of contract was being considered?

A: I think most recently, what was being written up was a sole source justification.

Q: If a sole source contract was being considered with the NFSTC, do you why they were being considered as a sole source?

A: For all the reason I just laid out. To meet all those requirements in a short time. I believe a

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LC market survey done by USACIL personnel did not reveal any other organization that could do the whole package. You could find people to train each discipline, and find a company to do the training. But, no one could do it all and meet our timeline that we are trying to meet.

Q: Do you know when a sole source contract can be offered?

A: I don't know all of the conditions. General, it's self-defining. When no one else can meet the requirement.

Q: Were you aware of the services that the NFSTC could provide before this contract process started?

A: Not specifically. Just generally.

Q: How were you aware?

A: From my years in the forensic community. It's a relatively small community, and you're aware of people and organizations through the professional network.

Q: Do you personally know anyone affiliated with the NFSTC? (Who and what is the level of the relationship, and how long have you known them?)

A: I know Lothridge in other capacities, when he was the director of a lab in Florida. I believe I met him when he was the ASCLD president. I've also met over the years, David Epstein, who works in NFSTC in some capacity.

Q: Do you know if anyone in USACIL has a personal or financial interest in the NFSTC?

A: The only connection that I'm aware of is that Mr. Tontarski's wife Carrie is on the NFSTC board. I believe it's an unpaid, voluntary role.

Q: Do you know if anyone in USACIL knows Mr. Lothridge?

A: I can't say, but I would assume people in USACIL must know him. I suspect Ms. Lisa Kreeger knows him.

Q: Do you know of any conspiracy between Mr. Tontarski, Mr. Abernathy or any other USACIL personnel to wrongly award a contract to the NFSTC?

A: No.

Q: Do you know of any rewards the NFSTC may have provided to anyone in USACIL?

A: No.

Q: Do you know if any USACIL personnel overzealously tried to steer the contract toward the NFSTC? Why?

A: I would describe Tontarski's position as strongly favoring the NFSTC because he saw them as a solution to our problem. I know of no nefarious reason for his support. I know of no overzealous action by him.

Q: Are you aware of any improper efforts by anyone in USACIL regarding their efforts to show other sources of these services did not have the capabilities to perform the services needed by USACIL?

A: I'm not aware of any of that.

Q: Do you know if any of the division chiefs contacted colleagues or professional agencies to determine their capabilities to provide the needed services?

A: Yes, but I don't know who was contacted.

Q: Do you know if any of the division chiefs were intentionally trying to get negative responses from the colleagues or professional agencies that they contacted about possibly providing the services need by USACIL?

A: No.

Q: Did you intentionally try to get negative responses from the colleagues or professional

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agencies that they contacted about possibly providing the services need by USACIL?

A: I made no calls.

In the anonymous complaint it was alleged that several crime lab division chiefs were ordered by Mr. Tontarski to travel down to the NFSTC in order to discuss the NFSTC's capability in performing the specifications that were later going to be written into a sole source contract.

Q: What participation did you have in this?

A: I did not participate at all. I am aware that several of the branch chiefs did travel to the NFSTC to see what they had. I'm not sure this could be characterized as ordered to go because I don't know that any were opposed to going.

Q: How was this travel undertaken, for how long, and who went?

A: It was official TDY travel. I think Mr. Don Coffey, Mr. Don Mikko and others went down. I'm not sure how long they went. Maybe an overnight trip.

Q: Who approved the trip?

A: Something like that would be approved by the chief and Tontarski would generate the request for orders. Abernathy's support staff would generate the orders.

Q: Do you know if any under the table deals were made with the NFSTC at this in regards to a future and proposed sole source contract?

A: No.

Q: What other services has USACIL contracted from the NFSTC?

A: Years ago we contracted with them to provide a pre-audit using ASCLD / Lab audit documents and to advise us if we were meeting the requirements. It was maybe ten years ago. We may have had them do a free audit in DNA. We have memorandum or understanding handled by Kreeger and I assume contracting, where we received four deployable shelters from NFSTC at no cost to evaluate them. We paid them about \$8,000 to for a gap analysis to evaluate our programs of instruction in latent prints and firearms to see what we needed to update them to meet the DoD requirement I previously described.

Q: Do you know if this was an effort to determine the NFSTC's capabilities, so that someone in USACIL could write a contract that only the NFSTC would be eligible for?

A: No. I don't know of any such purpose. It's had the opposite result. By doing the assessment, the NFSTC is eliminated from providing the needed services unless they somehow meet an exception to the normal process.

Q: Do you know if after the NFSTC assessment, that specifications were developed that only the NFSTC would have been able to perform, or that placed them at an unfair competitive advantage in being awarded the contract?

A: I don't know that was the intent. As I just explained, the outcome was the opposite. Because they helped develop the requirements, they are prohibited from competing for contract. As I currently understand it.

Q: Do you know if Mr. Tontarski used the annual appraisal as a means to force other employees to participate in this process, to the benefit of Mr. Tontarski or the NFSTC? (If so, who and what evidence do you have of this?)

A: No, I do not know of Tontarski using the process of trying to force people. Separately, some of the branch chiefs were unhappy with their performance ratings last year.

Q: Do you know if Mrs Tontarski would benefit in anyway if her husband was able to steer contracts toward the NFSTC?

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A: I know of no way she would benefit.

Q: Has anyone confided in you that they think there is malfeasance in this process? (who, when and what did they say?)

A: I've had conversations with all the branch chiefs with their dissatisfaction on the NSPS appraisal process. During sensing sessions on NSPS, several of them brought up concerns with the NFSTC issue.

Q: Was it Mr. Tontarski who presented the NFSTC as a viable source of the services that USACIL needed?

A: I believe so.

Q: At the time you were considering the NFSTC for these services, and for the assessment they provided, did you know about Mrs. Tontarski's role in the organization?

A: Yes, and we assigned Kreeger to evaluate it.

Q: Did Mr. Tontarski disclose to you his wife's role in the NFSTC at the time he was offering the NFSTC as a provider of the services USACIL needed?

A: I don't know when I became aware of that. I don't think it was ever a secret that had to be uncovered. Early on it was not recognized as a problem – unpaid position in a not for profit organization. It didn't leap out as a classic conflict of interest.

Q: What did he tell you about her participation in that organization?

A: That she was an unpaid volunteer. She was on the board of directors that advises the NFSTC in an unpaid capacity,. During Kreeger's review, Tontarski provided financial disclosure documents and additional information to Kreeger.

Q: Do you feel that Mrs Tontarski would have benefited in anyway by her husband steering contracts toward the NFSTC?

A: I know of no way she could benefit.

Q: Do you feel, or have evidence, that Mr. Tontarski purposely steered contracts toward the NFSTC in an effort to benefit that organization or his wife?

A: My impression was that was not the reason he wanted to use the NFSTC. I believe Tontarski wanted to solve a problem quickly.

Q: Who had the authority to award the contract or pay for services from the NFSTC?

A: I believe only the contracting office. Funds are handled by Resource management under the auspices of Mr. Abernathy.

Q: At what point did you start to discuss a potential conflict of interest, as a result of Mrs Tontarski's involvement in the NFSTC?

A: Least since Apr 08.

Q: Do you know of any wrongdoing by Mr. Tontarski, or any other lab official, regarding this process?

A: No.

Q: Do you have anything else to add to this statement?

A: We've tried to be as transparent as possible in this. We've used our in house attorney and ethics advisor. We've brought the local contracting officer and attorney to bear. We've identified a contract specialist position that we're trying to fill to have in house expertise. We've justified to manpower a second legal position, hopefully with administrative law expertise. We've done contract training. ///End of Statement///

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AFFIDAVIT

I, Larry C. Chelko HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT WHICH BEGINS ON PAGE 1 AND ENDS ON PAGE 6. I FULLY UNDERSTAND THE CONTENTS OF THE ENTIRE STATEMENT MADE BY ME. THE STATEMENT IS TRUE. I HAVE INITIALED ALL CORRECTIONS AND HAVE INITIALED THE BOTTOM OF EACH PAGE CONTAINING THE STATEMENT. I HAVE MADE THIS STATEMENT FREELY WITHOUT HOPE OF BENEFIT OR REWARD, WITHOUT THREAT OR PUNISHMENT, AND WITHOUT COERCION, UNLAWFUL INFLUENCE, OR UNLAWFUL INDUCEMENT.

Larry Chelko
(Signature of Person Making Statement)

SUBSCRIBED AND SWORN BEFORE ME, A PERSON BY LAW TO ADMINISTER OATHS, THIS 13th DAY OF August AT Fort Gillem, GA.

[Signature]
(Signature of Person Administering Oath)

FREDRICK J. BRONISZ

(Name of Person Administering Oath)

5 USC 303

(Authority to Administer Oath)

WITNESSES:

ORGANIZATION OR ADDRESS

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